

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RICHARD LEWIS,

Plaintiff,
v.

ORDER

MICHAEL STEPHEN, THEODRE ANDERSON,
BYRAN GERRY and ANDREW MILLER

15-cv-51-jdp

Defendants.

The Acceptance of Service filed on October 9, 2015 by the Wisconsin Department of Justice indicates that the department does *not* accept service on behalf of defendant Andrew Miller because DOJ is unable to identify him. Accordingly, defendant Andrew Miller will be treated like a Doe defendant with the following deadlines and explanations:

Identifying Doe Defendant “Andrew Miller”:

A) **January 12, 2016:** Plaintiff shall complete service of his discovery requests aimed at identifying Doe Defendant Andrew Miller. It is important for plaintiff to prepare clear, thorough discovery requests so that the defendants’ attorney and the institution have enough information to provide useful responses. It is not the responsibility of defendants’ attorney or the institution to determine the identity of the Doe defendant on their own. Upon receipt of plaintiff’s discovery requests relating to Doe defendant, the defendants’ attorney should endeavor to provide the requested information as soon as possible but not later than the time allowed by the federal rules of civil procedure. Although the defendants’ attorney and the institution have no duty to conduct a proactive investigation, the court expects them to use good faith best efforts promptly to identify the Doe defendant in this case.

The defendants' attorney should file with the court a copy of her responses to plaintiff's discovery requests relating to the Doe defendant. The defendants' attorney also must report to the court whether she will accept service of the amended complaint on behalf of the Doe defendant. If she chooses not to accept service, then he must provide to the court, ex parte and under seal, the known address of the now-identified Doe defendant so that the Marshals Service may serve him with the amended complaint.

B) February 26, 2016: Plaintiff shall file an amended complaint. The caption of the document shall be changed to identify it as the *amended* complaint. All that plaintiff needs to do in this document is tell the court the actual identity of his Doe defendant. Plaintiff does not need to—in fact is not allowed to—make any other changes to his complaint without first asking for and receiving permission from the court

Note well: If plaintiff does not file an amended complaint identifying the Doe defendant by the deadline, then this court could dismiss all of plaintiff's claims against the Doe defendant.

C) March 18, 2016: The now-identified Doe defendant shall file and serve his answer to plaintiff's amended complaint.

Entered this 31st day of December, 2015.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge